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December 11, 2014

12994-3

By Federal Express - Standard Overnight

The Honorable Mary Lou Robinson
United States District Court
Northern District of Texas
205 E. Fifth Street, Room 226
Box F-13248
Amarillo, Texas 79101-1559

Re: Terra Partners, et al. v. AG Acceptance Corporation
U.S. District Court for the District of New Mexico; No. 1:14-cv-01112-CG-KK

Dear Judge Robinson:

Our office represents the plaintiffs in the enclosed Petition For Accounting, Claim For Unjust Enrichment, Imposition Of Constructive Trust, And Request For Declaratory Relief ("Petition") filed in the Tenth Judicial District Court, State of New Mexico, as it concerns real estate located in New Mexico. The defendant to the Petition, Ag Acceptance Corporation ("AAC"), has removed the Petition to New Mexico Federal Court. A copy of the Notice Of Removal is also enclosed.

Counsel for AAC has provided to our office a copy of the Fifth Circuit Court of Appeals opinion enclosed herewith (the "Opinion"). The Opinion states in pertinent part:

EXHIBIT

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No pleading, lawsuit, or other document in any federal court shall be filed by, or on behalf of, Steve Veigel, his affiliates or related entities, including Terra Partners, without first presenting the filing to the district court below to determine whether the issues contained in the filing have been previously decided.

Your Honor was the trial judge in the above-referenced matter so we understand the "district court below" to refer to your Court.

According to the Opinion, at least some of our clients are prohibited from filing any "document" in any federal court without first seeking your permission. In accordance with that procedure established by the Fifth Circuit Court of Appeals, we are providing this letter and the enclosures directly to you (and copying all counsel involved in the New Mexico matter) in lieu of a formal filing. We are thereby complying with the Opinion, which became relevant because of AAC's removal of the Petition to federal court, and respectfully request the Court's attention to this matter.

We are advised that AAC intends to seek, in the New Mexico Federal Court, a change of venue transferring the matter to you. By operation of the Opinion, at least some of our clients would be prohibited from filing a response to the removal or to that motion (and/or any other document regardless of its nature) in the proceeding if it remains in federal court, whether in New Mexico or Texas.

On a literal reading of the Opinion, at least some of our clients would even be prohibited from requesting that the U.S. District Court for the District of New Mexico extend time to respond to the removal or the motion to transfer in order to allow a more reasonable time for your decision in response to this letter.

Because of the times for responses to the removal and the anticipated motion to transfer, if we do not hear from the Court otherwise before responses become due, we may have to presume that the Court has concluded that the matters of removal and potential transfer of the Petition have not been previously decided and that our clients may freely respond to them in the federal court in New Mexico. We hope to hear from you to that effect prior to that time.

We believe that upon review of the Petition and the Opinion you will see that the Petition does not raise arguments that were of concern in the Opinion and that any future filings by our clients in federal court in New Mexico related to the Petition are permissible.

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We look forward to hearing from you. Thank you for your consideration.

Very truly yours,

KELEHER & McLEOD, P.A.

By: 

Justin B. Breen

JBB:ctg

Enclosures

- (1) Petition For Accounting, Claim For Unjust Enrichment, Imposition Of Constructive Trust, And Request For Declaratory Relief - FILED 11-14-14
- (2) Doc. 1 Defendant's Notice Of Removal - FILED 12-08-14 [USDC for the District of New Mexico]
- (3) Opinion [FILED December 21, 2012 in the United States Court of Appeals for the Fifth Circuit]

c [w/enclosures]:

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